

APR 03 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SRIPATHI ASOKA KARUNATILLEKE,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 05-76274

Agency No. A097-108-227

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted March 18, 2009<sup>\*\*</sup>

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

Sripathi Asoka Karunatilleke, a native and citizen of Sri Lanka, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen. We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for abuse of

---

<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

discretion the denial of a motion to reopen, *Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003), and de novo due process claims, *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

The BIA did not abuse its discretion in denying Karunatilleke's motion to reopen to apply for adjustment of status because he did not submit clear and convincing evidence indicating a strong likelihood that his marriage is bona fide. *See Malhi*, 336 F.3d at 994; 8 C.F.R. § 204.2(a)(1)(iii)(B). It follows that the BIA did not violate due process. *See Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation).

**PETITION FOR REVIEW DENIED.**